IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Chandresh Kumar Jain & Ors. Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.559/2005

DATE OF ORDER :: November 01, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. Hemant Jain, for the petitioners.

Mr. Ashok Upadhyaya, Public Prosecutor.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioners seek quashing of the proceedings in criminal case No.140/1991 pending before the court of Additional Chief Judicial Magistrate, Sriganaganagar (for short 'the trial' hereinafter) for the offences under sections 27(b)(i), 27(c) and 27 of the Drugs and Cosmetics Act, 1940 (for short `the Act' hereinafter).

I have heard learned counsel for the petitioners and the

Public Prosecutor.

It is contended by the learned counsel for the petitioners that the proceedings against the manufacturer and wholesaler have been dropped and, therefore, the proceeding against the present petitioner be also quashed and in alternative, it is contended that the matter is pending since 1989 and, therefore, on the ground of delay in trial, the proceeding may be quashed. Both the contentions raised by the learned counsel for the petitioners cannot be accepted for the reasons that if the case is made out against the manufacturer or wholesaler or the prosecution/complainant failed to make out a case against them in the complaint, it cannot be a ground to quash the proceeding qua the petitioners in the complaint. From the material, the aforesaid offences are prima facie made out against the petitioners, who are the retailers.

So far delay in the trial of the case is concerned, the matter has been prolonged for the services of the various persons impleaded in the complaint including the petitioners which is the admitted case of the petitioners. In the petition itself, the petitioners have stated that though the summons were issued on 21.2.1991 but none of the accused was served till 17.12.1994, however, on that day, petitioner No.1 appeared

before the trial court. Thereafter, the matter was adjourned from time to time for service of the other accused but when no one appeared before the trial court till 31.8.2004, the trial court issued bailable warrant against the accused persons. Thereafter, one after another the applications have been moved by the manufacturer and the wholesaler and, therefore, no fault can be found with the complainant in prosecuting the case.

The petition has no force and the same is, therefore, dismissed. However, the trial court is directed to dispose of the case utmost expeditiously taking the case on priority basis.

[H.R.PANWAR],J.

m.asif/-